

## AGENDA REPORT

**Resolution:** Delegate Authority to Approve Plans and Project Manual to the Director of Engineering and Authorize the Executive Director to Enter into a Contract with Oliver de Silva, Inc. dba Gallagher & Burk, Inc. in the amount of \$557,965 for the Howard Terminal Pavement Repair FY18 Project. **(Engineering)**

**MEETING DATE:** 4/12/2018

**AMOUNT:** \$557,965.00 Contract Authority  
Operating Expense

**PARTIES INVOLVED:** Oliver de Silva, Inc. dba Gallagher & Burk, Inc.  
Oakland, CA.  
David DeSilva

**SUBMITTED BY:** Chris Chan, Director of Engineering

**APPROVED BY:** J. Christopher Lytle, Executive Director

**ACTION TYPE:** Resolution

### **EXECUTIVE SUMMARY**

Staff is requesting a Resolution to delegate authority to approve the Plans and Project Manual to the Director of Engineering and authorize the Executive Director to enter into a contract with Oliver de Silva, Inc. dba Gallagher & Burk, Inc. in the amount of \$557,965 for the Howard Terminal Pavement Repair FY18 Project.

### **BACKGROUND**

The Port is obligated to maintain the environmental cap at Berths 67-68, also known as, the Charles P. Howard Terminal ("Howard Terminal"). The environmental restrictions at this terminal are described in the Department of Toxic Substances Control's ("DTSC") "Remedial action certification dated December 23, 2004 in compliance with the Operation and Maintenance ("O&M") agreement, dated 12 August 2004, which was entered into by the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners, and the DTSC, recorded on 3 March 2003, and subsequently amended and recorded on 8 September 2004."

Staff identified areas within the environmental cap that requires repair to maintain compliance with the O&M.

## **ANALYSIS**

The Howard Terminal Pavement Repair FY18 Project ("Project") is an "in-kind" replacement of the existing asphalt pavement located at Howard Terminal. The work consists of milling the existing asphalt pavement, hauling asphalt grindings off-site, and installing new asphalt pavement. The projected life of the newly placed asphalt pavement is expected to be three to five years, depending on use. The proposed repairs are required to preserve the environmental cap as stipulated in the O&M agreement between the Port and DTSC.

The plans and project manual have been completed and the Project was advertised on February 27, 2018 on ebid board and the Port of Oakland's website. Bids for the Project were opened publicly on March 16, 2018. The Port received four (4) bids for the Project from the following bidders:

| <b>Contractor (Bidder)</b>                           | <b>Location</b>           | <b>Bid Amount</b> | <b>Certified LIA/LBA</b> |
|--|---------------------------|-------------------|--------------------------|
| Oliver de Silva, Inc. dba<br>Gallagher & Burk, Inc.  | Oakland, CA.              | \$ 557,965.00     | LIA                      |
| A. Teichert & Son, Inc. dba<br>Teichert Construction | Pleasanton, CA.           | \$ 600,968.00     | n/a                      |
| O.C. Jones & Sons, Inc.                              | Oakland, CA.              | \$ 605,236.50     | LIA                      |
| Interstate Grading & Paving,<br>Inc.                 | So. San<br>Francisco, CA. | \$ 707,205.00     | n/a                      |

Staff determined that Oliver de Silva, Inc. dba Gallagher & Burk, Inc. is responsive and responsible because they are appropriately licensed and are in good standing with the Contractors State License Board, their bid demonstrates that they can perform the work as specified in the contract documents, they have submitted all required documentation, and they have submitted an unconditional offer to provide the work as specified in the contract documents.

## **BUDGET & STAFFING**

There is no budget impact as this expenditure is included in the Adopted FY2018 Operating Expense Budget. This request is for contractual authority only to implement the Work.

The proposed action does not have any staffing impact.

## **MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)**

This contract is for Major Maintenance and is not part of the Port's Capital Improvement Program (CIP) and therefore the provisions of the MAPLA do not apply to this work.

## **STRATEGIC PLAN**

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan 2018-2022. <https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

- Goal: Improve Customer Service
- Goal: Modernize and Maintain Infrastructure
- Goal: Care for Our Environment

## **LIVING WAGE**

Living wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the "Living Wage Regulations"), do not apply because the contract is a construction contract covered by state prevailing wage rules and the prevailing rate of wage is higher than the wage required by the Living Wage Regulations.

## **ENVIRONMENTAL**

CEQA Determination: This action was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines. The general rule in Section 15061(b)(3) of the CEQA Guidelines states that CEQA applies only to activities that have a potential for causing a significant effect on the environment. Port staff conducted an environmental analysis on the road maintenance work described above and determined that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; therefore, the activity is not subject to CEQA.

## **GENERAL PLAN**

This project involves maintenance of existing facilities being used in conformance with the Oakland General Plan, pursuant to Section 727 of the City of Oakland Charter, and will not change the use of any facility(ies).

## **OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)**

This project is not subject to the Port's Owner Controlled Insurance Program (OCIP) as it is not a capital improvement construction project.

## **OPTIONS**

Staff has identified the following options for the Board's consideration:

1. Approve the actions as outlined in this agenda report. This is the recommended action.

2. Delay the pavement repairs at the Howard Terminal until next fiscal year; do not delegate the authority to approve the plans and project manual to the Director of Engineering; do not authorize the Executive Director to enter into a contract with Oliver de Silva, Inc. dba Gallagher & Burk, Inc.; and authorize the Executive Director to reject all bids and return all bid securities. This action may result in violation of the O&M agreement with the Department of Toxic Substances Control and may result in fines or closure of the affected areas.

## **RECOMMENDATION**

Staff recommends that the Board adopt a resolution to:

1. Delegate the authority to approve the Plans and Project Manual to the Director of Engineering; and
2. Authorize the Executive Director to enter into a contract with Oliver de Silva, Inc. dba Gallagher & Burk, Inc. in the amount of \$557,965 for the Howard Terminal Pavement Repair FY18 Project.